



STATE BOARD OF EQUALIZATION  
PROPERTY AND SPECIAL TAXES DEPARTMENT  
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July 30, 2007

TO: INTERESTED PARTIES

Enclosed is a copy of Current Legal Digest (CLD) number 2007-5 for your information and review. The annotations included in this CLD are new proposed annotations (underlined) and/or suggested revisions or deletion of existing annotations (indicated by ~~strikeout~~ and underline). After review, please submit any questions, comments, or suggestions for changes *in writing* by **Friday, August 31, 2007**. These may be sent by e-mail using the "Comments Form" on the Board's website ([www.boe.ca.gov/proptaxes/cld.htm](http://www.boe.ca.gov/proptaxes/cld.htm)), fax or mail. Here is the mailing address:

Board of Equalization  
County-Assessed Properties Division  
ATTN: Annotation Coordinator  
P. O Box 942879  
Sacramento, CA 94279-0064

Please note, the new annotations and/or suggested revisions of existing annotations contained in the enclosed CLD are *drafts* and may not accurately reflect the Board's official position on certain issues nor reflect the language that will be used in the final annotation, if formally adopted.

CLDs are circulated for 30 days, at which time any questions are addressed and/or suggested modifications taken into consideration. After approval of the final version by the Board's Legal Department, the changes will be posted to the Board's website under "Annotations" ([www.boe.ca.gov/proptaxes/annocont.htm](http://www.boe.ca.gov/proptaxes/annocont.htm)). After all proposed changes have been resolved, the CLD will become obsolete and deleted from the website.

This CLD is posted on the Board's website at [www.boe.ca.gov/proptaxes/cld.htm](http://www.boe.ca.gov/proptaxes/cld.htm). Copies of the backup correspondence are linked to each annotation via the annotation number. If a link does not work, please let us know by using the "Comments Form" on our website ([www.boe.ca.gov/proptaxes/cld.htm](http://www.boe.ca.gov/proptaxes/cld.htm)). If you have any questions, please contact Glenna Schultz at 916-324-5836.

Sincerely,

/s/Lynn Bartolo for

David J. Gau  
Deputy Director  
Property and Special Taxes Department

DJG/grs  
Enclosure

# PROPERTY AND SPECIAL TAXES DEPARTMENT

## PROPERTY TAXES CURRENT LEGAL DIGEST NO. 2007-5

July 30, 2007

### 220.0000 CHANGE IN OWNERSHIP

[220.0211](#) **Exclusions.** When a surviving spouse acquires majority ownership of a partnership, through the spousal property order of the probate court granting her the deceased spouse's community property interest, the change in control of the partnership is not a change in ownership triggering reappraisal for property tax purposes. The interspousal transfer exclusion of Revenue and Taxation Code section 63 applies to the transfer. C 8/1/96; C 2/22/2007.

[220.0268](#) **Interspousal Transfers.** A transfer of a joint tenancy interest in real property to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of marriage is excluded from change in ownership under Revenue and Taxation Code section 63. A mother conveyed property to herself, her daughter, and her son-in-law as joint tenants. The mother became an "original transferor" and the daughter and the son-in-law became "other than original transferors." Subsequently, the daughter and the son-in-law divorced and the son-in-law deeded his interest in the property to his wife (the daughter) in connection with a property settlement agreement or decree of dissolution of marriage. The termination of a joint tenancy interest is a change in ownership as to the one-third interest transferred, however, the interspousal exclusion applies. C 2/21/2007.

[220.0278](#) **Interspousal Transfers.** Revenue and Taxation Code section 63 does not apply to a transfer from a husband and a wife to a corporation, a legal entity, wholly owned by wife. The exclusion provided by Revenue and Taxation Code section 62(a)(2) is not applicable since after the transfer, wife held a 100 percent interest in the property through the corporation. For corporate change in ownership purposes, a husband and a wife are treated as separate individuals, and the ownership interest of one spouse in a corporation is not attributed to the other. C 5/14/93; C 2/22/2007.

[220.0324](#) **Lease Option.** A ground lease for a term of 99 years which includes an option for the lessor to terminate the lease is a change in ownership upon the execution of the lease. The lessor's option to terminate the lease does not diminish the change in ownership consequence following the creation of a leasehold interest for a term of 35 years or more at the time of the lease's execution. C 2/7/2007.

### 460.0000 FULL CASH VALUE

[460.0004](#) **City Regulatory Agreement—Affordable Housing.** A city redevelopment agency, with assistance from the City, increases the supply of affordable housing within its redevelopment area by requiring developers seeking approval to build housing projects and sell a portion of the dwelling units (affordable units) to low or moderate income purchasers (purchasers).

In order to acquire the property, the purchaser must obtain a first mortgage from a private lender, the amount of which is tied to the median-area income, the purchaser's income, and current interest rates (first mortgage). Additionally, prior to closing, each purchaser of an affordable unit must enter into a recorded regulatory agreement with the City that requires

that the purchaser execute a promissory note and second trust deed, referred to as a silent second mortgage, under which the City may require payment after 30 years.

The recorded regulatory Agreement entered into by the City and the purchaser constitutes an enforceable government restriction under section 402.1. Thus, in the absence of evidence of comparable sales of similarly restricted property, the value of the affordable units for property tax purposes, under section 110(b), is their purchase price, which in each case may be estimated by adding the sum of the down payment and the face amount of the first mortgage to the assessor's estimate of the present economic value of the silent second. C 2/8/2007.

## **535.0000 LAND USE RESTRICTIONS**

**535.0006 City Regulatory Agreement—Affordable Housing.** A city redevelopment agency, with assistance from the City, increases the supply of affordable housing within its redevelopment area by requiring developers seeking approval to build housing projects and sell a portion of the dwelling units (affordable units) to low or moderate income purchasers (purchasers).

In order to acquire the property, the purchaser must obtain a first mortgage from a private lender, the amount of which is tied to the median-area income, the purchaser's income, and current interest rates (first mortgage). Additionally, prior to closing, each purchaser of an affordable unit must enter into a recorded regulatory agreement with the City that requires that the purchaser execute a promissory note and second trust deed, referred to as a silent second mortgage, under which the City may require payment after 30 years.

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